

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARY F. DUNN-MASON,

Plaintiff,

v.

JP MORGAN CHASE BANK  
NATIONAL ASSOCIATION, et al.,

Defendants.

---

Case No. 11-cv-13419

HONORABLE STEPHEN J. MURPHY, III

**ORDER ADOPTING REPORT AND RECOMMENDATION**  
**(docket no. 108) AND DENYING WITHOUT PREJUDICE**  
**TROTT & TROTT PC'S MOTION TO DISMISS (docket no. 93)**

Plaintiff filed her pro se complaint against JP Morgan Chase Bank National Association ("Chase") and Trott & Trott P.C. ("Trott") alleging Defendants violated the Real Estate Settlement Procedure Act and the Fair Debt Collection Practices Act, among other things, related to the foreclosure of Plaintiff's property. Trott filed a motion to dismiss on January 10, 2013. ECF No. 93. The matter was referred to a magistrate judge who issued a report and recommendation ("Report") suggesting that the Court deny Trott's motion without prejudice. The magistrate judge noted that Trott filed an answer to plaintiff's second amended complaint on June 1, 2012, and that this rendered its subsequent motion to dismiss under Rules 12(b)(6) and (7) untimely. Report 6, ECF No. 108. Trott argued in support of its motion that the Court should construe its motion as a Rule 12(c) motion for judgment on the pleadings. Reply 2, ECF No. 99. The magistrate judge recommends denying this motion as premature because a Rule 12(c) motion may not be filed until the

pleadings are "closed," and in this case the pleadings are not closed because Chase has not filed an answer to Plaintiff's second amended complaint. Instead, Chase has filed a motion to dismiss pursuant to Rules 12(b)(1) and (6), which is pending. Thus, the magistrate judge recommends denying Trott's motion without prejudice. No objections have been filed to this recommendation.

De novo review of a magistrate judge's findings is only required when a party has properly objected to the proposed findings and recommendations. Fed. R. Civ. P. 72(b)(3). De novo review of the magistrate judge's findings is, therefore, not required.

The Court has reviewed the file and the report and recommendation, and finds that the magistrate judge's analysis is proper. Accordingly, it will adopt the report's findings and conclusions, and will deny Trott's motion without prejudice.

**WHEREFORE**, it is hereby **ORDERED** that magistrate judge's report and recommendation (docket no. 108) is **ADOPTED** and Trott's motion to dismiss action as to Trott & Trott PC (docket no. 93) is **DENIED** without prejudice.

**SO ORDERED.**

s/Stephen J. Murphy, III  
STEPHEN J. MURPHY, III  
United States District Judge

Dated: August 13, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 13, 2013, by electronic and/or ordinary mail.

s/Carol Cohron  
Case Manager